

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

IN RE: AMERICAN MEDICAL SYSTEMS, INC.  
PELVIC REPAIR SYSTEM PRODUCTS  
LIABILITY LITIGATION

MDL No. 2325

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*Billie Rice, et al. v. American Medical Systems, Inc.*

*2:13-cv-04150*

MEMORANDUM OPINION AND ORDER

Pending is a Motion to Dismiss Plaintiffs Billie and Barclay Rice's Complaint with Prejudice for Failure to Comply with Pre-Trial Order # 280, filed July 15, 2019. [ECF No. 14]. AMS cites to plaintiffs' failure to timely serve a Plaintiff Fact Sheet ("PFS") in violation of AMS Pretrial Order # 280. Plaintiffs have not responded to the motion. Plaintiffs also failed to respond to requests for admission or the motion to deem those requests for admission admitted, and the requests for admission were deemed admitted by order entered September 10, 2019. [ECF No. 18].<sup>1</sup>

The court finds, pursuant to Rules 16 and 37 of the Federal Rules of Civil Procedure and after weighing the factors identified in *Wilson v. Volkswagen of Am., Inc.*, 561 F.2d 494, 503-06 (4th Cir. 1977), that this case should be dismissed without prejudice for failure to provide a PFS in compliance with the court's previous order.

Therefore, the court **ORDERS** that the Motion to Dismiss filed by AMS [ECF No. 14] is **GRANTED in part** to the extent AMS seeks dismissal and **DENIED insofar**

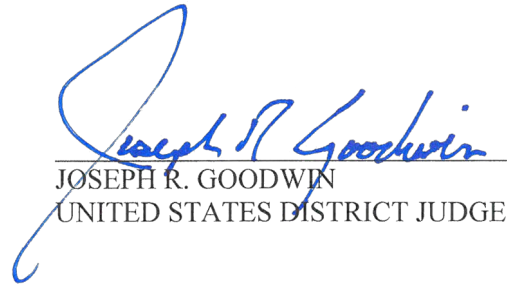
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<sup>1</sup> The court is aware of plaintiffs' counsel's desire to withdraw as counsel. [ECF No. 12].

as AMS seeks dismissal with prejudice. The court **ORDERS** that the case is dismissed without prejudice and stricken from the court's docket.

The court **DIRECTS** the Clerk to send a copy of this order to counsel of record.

ENTER: September 30, 2019



JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE